

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                     |   |                        |
|-------------------------------------|---|------------------------|
| -----                               | X |                        |
| WILLIAM G. GIBBONS,                 | : | ECF Case               |
|                                     | : |                        |
| Plaintiff,                          | : | 07 Civ. 2801 (MGC)     |
|                                     | : |                        |
| -against-                           | : | <u>DECLARATION OF</u>  |
|                                     | : | <u>ALLISON D. PENN</u> |
| LEONARD FRONTON, D.O., STEVEN FEIN, | : |                        |
| M.D., STERLING MEDICAL CORPORATION, | : |                        |
| DEPARTMENT OF VETERANS AFFAIRS, and | : |                        |
| THE UNITED STATES OF AMERICA,       | : |                        |
|                                     | : |                        |
| Defendants.                         | : |                        |
| -----                               | X |                        |

ALLISON D. PENN, pursuant to 28 U.S.C. § 1746, declares the following under penalty of perjury:

1. I am an Assistant United States Attorney in the office of Michael J. Garcia, United States Attorney for the Southern District of New York, attorney for defendants the Department of Veterans Affairs and the United States of America in this action. I am the attorney assigned to the defense of this matter.

2. I submit this declaration in support of the defendants' Motion to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

3. Attached hereto as Exhibit A is a true and correct copy of the Administrative Complaint Plaintiff filed with the Department of Veterans Affairs on or about July 18, 2006.

4. Attached hereto as Exhibit B is a true and correct copy of the Complaint filed on February 16, 2007, in Federal district court for the Eastern District of New York against defendants Drs. Leonard Fronton, Steven Fine, Sterling Medical Corporation, Department of Veterans Affairs and the United States of America, asserting causes of action for medical

malpractice, lack of informed consent and medical facility negligence, arising from defendants' alleged failure to diagnose and treat plaintiff's prostate cancer.

5. Attached hereto as Exhibit C is a print-out from PACER of the docket sheet in this case from the district court for the Southern District of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
July 19, 2007



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ALLISON D. PENN